

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM ESCALERA, JR.,

Plaintiff,

-against-

SAMARITAN VILLAGE MEN'S
SHELTER, *et al.*,

Defendants.

17-CV-4691 (CM)

ORDER DENYING REQUEST FOR PRO
BONO COUNSEL

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff is proceeding in this matter *pro se* and *in forma pauperis*. On September 27, 2019, the Court directed Plaintiff to file an amended complaint. On September 30, 2019, Plaintiff moved for appointment of *pro bono* counsel.

The factors to be considered in ruling on an indigent litigant's request for counsel include the merits of the case, Plaintiff's efforts to obtain a lawyer, and Plaintiff's ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are "[t]he factor which command[s] the most attention." *Cooper*, 877 F.2d at 172.

Because it is too early in the proceedings for the Court to assess the merits of the action, Plaintiff's motion for counsel is denied without prejudice to renewal at a later date. The Court grants Plaintiff sixty days from the date of this order to file an amended complaint.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. Plaintiff's motion for *pro bono* counsel (ECF No. 24) is denied without prejudice.

Plaintiff must submit an amended complaint that complies with the September 27, 2019 order. Plaintiff is directed to submit the amended complaint to this Court's Pro Se Intake Unit

within sixty days of the date of this order, caption the document as an “Amended Complaint,” and label the document with docket number 17-CV-4691 (CM). No summons will issue at this time. If Plaintiff fails to comply within the time allowed, and he cannot show good cause to excuse such failure, the complaint will be dismissed for failure to state a claim upon which relief may be granted.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: November 12, 2019
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge